

REMARKS/ARGUMENTS

Applicants wish to thank Examiner Troung for indicating during an interview held on November 17, 2003, and indicating that the non-heterocyclic or non-heteroaryl groups will be included in Group I and will be examined together and inclusion of new Group V in the new Requirement for Restriction.

The Office has required restriction in the present application as follows:

- Group I: Claim(s) 1-11 (in part), drawn to compounds and herbicide of formula I with the following substituents:  
 $R^2$  is  $R^{2-1}$  or  $R^{2-2}$  (i.e., phenyl or naphthyl); or a non-heterocyclic (non-heteroaryl) group;  
Ar is Ar-1 or Ar-2 (i.e., phenyl or naphthyl);  
 $R^3$  and  $R^6$  do not form a ring;  
 $R^9$  and  $R^{10}$  do not form a ring;
- Group II: Claim(s) 1-11 (in part), drawn to compounds and herbicide of formula I with the following substituents:  
 $R^2$  is a ring selected from the group of  $R^{2-3}$  to  $R^{2-13}$ ;  
Ar is a ring selected from the group of Ar-3 to Ar-17;  
 $R^3$  and  $R^6$  do not form a ring;  
 $R^9$  and  $R^{10}$  do not form a ring;
- Group III: Claim(s) 1-11 (in part), drawn to compounds and herbicide of formula I with the following substituents:  
 $R^2$  is  $R^{2-1}$  or  $R^{2-2}$  (i.e., phenyl or naphthyl);  
Ar is Ar-1 or Ar-2 (i.e., phenyl or naphthyl);  
 $R^3$  and  $R^6$  form a ring; or,  
 $R^9$  and  $R^{10}$  form a ring;
- Group IV: Claim(s) 1-11 (in part), drawn to compounds and herbicide of formula I with the following substituents:  
 $R^2$  is a ring selected from the group of  $R^{2-3}$  to  $R^{2-13}$ ;  
Ar is a ring selected from the group of Ar-3 to Ar-17;  
 $R^3$  and  $R^6$  form a ring; or  
 $R^9$  and  $R^{10}$  do not form a ring; and
- Group V: Claims 1-11 (in part), drawn to compounds and herbicides of formula I with the combination of  $R^2$ , Ar,  $R^3$ ,  $R^6$ ,  $R^9$  and  $R^{10}$  that is not in Groups I-IV. Further restriction will be required if this group is elected.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

Applicants respectfully traverse the requirement for restriction on the grounds that the Office has not provided adequate reasons and/or examples to support a conclusion of patentable distinctness between the identified groups.

In regard to Groups I-V, the Office has characterized these Groups as "unrelated." Citing MPEP §§806.04 and 808.01, the Office suggests that Groups I-V are "drawn to the compounds having different combination of ring systems." However, Applicants respectfully submit that the Office has merely made conclusory statements, and has not provided evidence to suggest that these Groups are distinct, as alleged. Accordingly, Applicants respectfully submit that the requirement for restriction is improper, and it should therefore be withdrawn.

The Office, citing PCT Rule 13.1 and 13.2, contends that Groups I-IV having the "special technical feature of (pyrimidin-4yl)-CH-N-" does not relate to a single general inventive concept because they lack the same or corresponding special technical features which defines an advance over the prior art. However, the Office has provided no basis for this conclusion. In fact, Applicants note that the Office has not provided any references and/or explanation to support the position that the "special technical feature of (pyrimidin-4yl)-CH-N-" does not establish an advance over the prior art. Accordingly, the Office has made an assertion without merit, and Applicants respectfully submit that the Requirement for Restriction be withdrawn.

Applicants traverse that Requirement for Restriction on the additional grounds that the Office has not applied the same standard of unity of invention as the International Preliminary Examination Authority (see English translation submitted herewith). The

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Authority did not take the position that unity of invention was lacking in the International application and examined all claims together.

Accordingly, Applicants respectfully submit that the Office has failed to properly support the Requirement for Restriction and accordingly request that it be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully submitted,

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